

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)**

ART SHY, et al.)	
)	
Plaintiffs,)	
v.)	
)	
NAVISTAR INTERNATIONAL)	Case No.: 3:92-cv-00333
CORPORATION, et al.,)	
)	
Defendants.)	Judge Walter Herbert Rice
)	
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SUPPLEMENTAL BENEFIT COMMITTEE OF)	
THE NAVISTAR INTERNATIONAL)	
TRANSPORTATION CORP. RETIREE)	
SUPPLEMENTAL BENEFIT PROGRAM,)	
)	
Intervenor-Plaintiff,)	
v.)	
)	
NAVISTAR, INC.,)	
)	
Defendant.)	

**DEFENDANT’S MOTION FOR LEAVE TO FILE *INSTANTER* ITS REPLY BRIEF
IN SUPPORT OF ITS MOTION TO DISMISS INTERVENOR-PLAINTIFF’S
AMENDED COMPLAINT AND COMPEL DISPUTE RESOLUTION PROCESS**

Defendant Navistar, Inc., (“Navistar” or the “Company”), respectfully moves the Court for leave to file *instanter* a reply brief in support of Navistar’s Motion to Dismiss Intervenor-Plaintiff’s Amended Complaint and Compel Dispute Resolution Process. In support of its motion, Navistar states as follows:

1. On October 17, 2013, Navistar filed a Motion to Dismiss and Compel Dispute Resolution Process in response to the Amended Complaint of Intervenor-Plaintiff Supplemental Benefit Committee of the Navistar International Transportation Corp. Retiree Supplemental Benefit Program (the “SBC”). Dkt. No. 438.
2. The SBC filed a response to Navistar’s motion on October 31. Dkt. No. 441.

3. Pursuant to the Court's October 4 Order (Dkt. No. 437), Navistar requests leave to file a short reply brief to address the following issues: First, Navistar seeks to address the SBC's failure to provide any legal authority rebutting the presumption of arbitrability of claims under the Federal Arbitration Act. Second, Navistar seeks to address the SBC's arguments that it believes the Court is better suited to resolve the present dispute than a third party. Third, Navistar seeks to respond to the SBC's argument that a third party is not qualified to resolve the dispute. A copy of Navistar's proposed reply is attached as Exhibit A hereto.

4. Navistar's proposed reply will assist the Court in its determination of whether to grant the pending motion to dismiss, and has been filed with sufficient time for the Court to consider the arguments before the Court issues its ruling on or before the next telephonic conference scheduled for December 3, 2013.

WHEREFORE, Defendant Navistar, Inc. respectfully requests that the Court grant this motion for leave to file *Instantly* its Reply to Plaintiff's Response to Defendant's Motion to Dismiss Intervenor-Plaintiff's Amended Complaint and Compel Dispute Resolution Process.

Respectfully submitted,

s/ David P. Pierce

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*Admitted Pro Hac Vice as
One of the Attorneys for Defendants
Navistar International Corporation, et al.*

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November 2013 a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's CM/ECF and copies will be mailed via U.S. Mail, postage prepaid, to those parties to whom electronic notice has not been sent. Parties may access the filing through the Court's system.

/s/ David P. Pierce_____

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